



0000146981

BEFORE THE ARIZONA CORPORATION**COMMISSIONERS**

Arizona Corporation Commission

DOCKETED

GARY PIERCE - Chairman
 BOB STUMP
 SANDRA D. KENNEDY
 PAUL NEWMAN
 BRENDA BURNS

JUL 30 2013

DOCKETED BY

nr

IN THE MATTER OF THE APPLICATION OF
 ARIZONA WATER COMPANY FOR AN
 EXTENSION OF ITS EXISTING CERTIFICATE
 OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01445A-05-0389

DECISION NO. 74007

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 68442, 70844 AND
72247

Open Meeting
 July 17 and 18, 2013
 Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the
 Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On February 2, 2006, the Arizona Corporation Commission ("Commission") issued
 Decision No. 68442 which approved a request for an extension of Arizona Water Company's
 ("Company" or "Applicant") Certificate of Convenience and Necessity ("Certificate") to provide
 public water service to three parcels of land¹ located in both the City of Coolidge ("City"), and in
 portions of Pinal County, Arizona subject to certain conditions to be completed within one year of the
 Decision.

2. As a condition of the Commission's approval, the Company was required to do the
 following:

- that the Company charge its existing rates and charges for its Coolidge

¹ The three parcels were known as the Skousen, Lorenson and Vail parcels.

system in the proposed extension area;

- that the Company file, within 365 days of the effective date of this Decision, with the Commission's Docket Control, as a compliance item, a copy of the respective developer's Certificate of Assured Water Supply ("CAWS") issued by the Arizona Department of Water Resources ("ADWR") for the areas described in Exhibit A;
- that the Company file, within 365 days of the effective date of this Decision, with the Commission's Docket Control, as a compliance item, copies of any executed main extension agreements;² and
- that the Company file, within 365 days of the effective date of the Decision, with the Commission's Docket Control, as a compliance item, copies of the respective Certificates of Approval to Construct ("ATC") issued by the Arizona Department of Environmental Quality for the construction of mains in the three extension areas.

3. On December 27, 2006, the Company filed a request for a one-year extension of time, until February 2, 2008, to complete the compliance requirements for Decision No. 68442. The Company indicated that it was in partial compliance with Decision No. 68442 and had filed some of the required documentation, and stated that development was going forward on the three parcels of land included in the extension area.

4. On January 4, 2007, by Procedural Order, the Commission's Utilities Division ("Staff") was directed to file a response to the Company's request by January 18, 2007. Staff did not file any objections to this request by the Company.

5. On January 17, 2007, the owner of the Vail parcel filed a letter in support of the Company's request for an extension of time.

6. On February 1, 2007, by Procedural Order, the Company was granted an additional extension of time, until February 2, 2008, to comply with Decision No. 68442.

7. On December 13, 2007, the Company filed another request for an additional one-year extension of time, until February 2, 2009, to complete the compliance requirements for Decision No. 68442. The Company indicated that it was in partial compliance with Decision No. 68442 and had completed the required compliance filing on the Skousen and Lorenson parcels, and stated that development was going forward on the three parcels of land included in the extension area.

² Staff notes that since the date of Decision No. 68442, Commission extension Decisions no longer require the filing of main extension agreements in the docket because the Commission's rules require that main extension agreements be filed with Staff for approval.

1 8. On January 8, 2008, Staff filed a memorandum with respect to the Company's
2 additional request for an extension of time, until February 2, 2009, to meet the compliance
3 requirements of Decision No. 68442. Staff confirmed the completion of the compliance requirements
4 for the Skousen and Lorensen parcels and confirmed that development was proceeding on the third
5 parcel. Staff concluded that it did not object to the Company's request for an extension of time, until
6 February 2, 2009, to complete the compliance requirements for the third parcel, but recommended
7 that no further extensions of time be approved after the aforementioned date.

8 9. On January 24, 2008, by Procedural Order, the Company was granted an additional
9 extension of time to comply with Decision No. 68442, until February 2, 2009, to meet the compliance
10 requirements of the Decision.

11 10. On December 17, 2008, the Company filed a request for a third extension of time, this
12 time for two years, until February 2, 2011, to complete its compliance requirements for the third
13 parcel known as the Vail parcel. Attached to the Company's request was a letter from the CEO of the
14 company which owns the Vail parcel. He indicated that his firm still desired water service for the
15 parcel and stated that development was to begin within 24 months "if market conditions do not
16 worsen."

17 11. On January 28, 2009, Staff filed a memorandum in response to the Company's third
18 request for an extension of time to comply with Decision No. 68442. Staff weighed the pros and
19 cons for a further extension of time for the Company to meet the compliance requirements for the
20 third parcel and pointed out that the third parcel consists of only 160 acres and is essentially
21 surrounded by, and is adjacent to, the Company's existing certificated service area. Staff ultimately
22 concluded that the requested extension of time is in the best interest of all of the parties, adding that it
23 would not be economically or operationally feasible for a water provider other than the Company to
24 provide service. Staff therefore recommended approval of the Company's request.

25 12. On March 17, 2009, the Commission issued Decision No. 70844 approving an
26 extension of time until February 2, 2011, to file the required documentation for Parcel Three aka the
27 Vail parcel.

28 13. On November 17, 2010, the Company filed a further request for an additional two-

1 year extension of time, until February 2, 2013, to file the required documentation for Parcel Three
2 due to the "severe economic recession" which had a "particularly adverse effect on Arizona real
3 estate." The Company further related that it has secured a Physical Availability Determination
4 ("PAD") from ADWR, a precursor to securing a CAWS from the same agency. Lastly, the Company
5 provided a copy of an updated request for water service from the developer of Parcel Three.

6 14. On February 18, 2011, Staff filed a memorandum in response to the Company's
7 request for an extension of time to file the required documentation for Parcel Three. Staff did not
8 object to the requested extension in light of the Company's compliance with respect to Parcels One
9 and Two and recommended approval of the extension, until February 2, 2013, to file the required
10 documentation as set forth in Findings of Fact No. 2.

11 15. Staff further recommended that no additional extensions be granted.

12 16. On April 7, 2011, the Commission issued Decision No. 72247, which approved the
13 Company's November 17, 2010, request for an additional extension of time until February 2, 2013, to
14 file the required documentation for Parcel Three aka the Vail Parcel. The Commission further stated
15 that it was putting the Company on notice that any future requests for an extension of time to comply
16 must demonstrate that extraordinary circumstances existed that warranted an approval of an extension
17 of time.

18 17. On February 7, 2013, the Company filed a request for a fourth extension of time, for
19 an additional two years, until February 2, 2015, to meet the compliance requirements for Parcel
20 Three.

21 18. In support of the request herein, the Company states as follows:

- 22 • the Company has substantially complied with the requirements of the Decision No.
23 68442, and the remaining compliance requirements concern only Parcel Three;
- 24 • the Company is currently serving 14 customers in the expansion area approved by the
25 Decision No. 68442;
- 26 • the deep recession and real estate crash over the past several years (essentially, the
27 entire time that Decision No. 68442 has been in effect) are extraordinary
28 circumstances that have not been seen since the Great Depression. The severe
economic downturn that has battered the Arizona real estate market persists, and
continues to delay the development of residential and mixed-use development in

1 expects to serve additional customers in the expansion area within the next few years
2 and no one, including housing experts and economists, can say for sure when the real
estate market will see a recovery of any significance;

- 3 • the Commission's Staff observed in evaluating Willow Valley Water Company's
4 request for additional time recommended approval in Docket No. W-1732A-05-0532
5 resulting in Decision No. 71861 (September 1, 2010) that "... the downturn in the
economy has put a damper on much of the development in this state;"
- 6 • ADWR has approved a PAD for an area that includes the entire expansion area. The
7 PAD, as approved by ADWR, confirms the ADWR's determination that a sufficient
8 amount of groundwater is physically available for 100 years for assured water supply
9 purposes in the PAD study area, which includes the entire extension area and that the
10 water is of adequate quality. The Company submits that approval of the PAD satisfies
11 the policy objectives behind the condition of obtaining a CAWS. See, generally,
12 Decision No. 68722 (July 30, 2007), paragraph 97. In addition, Commission Decision
13 No. 74146 (May 1, 2012), entered in the Global Certificate dockets, Docket No. W-
14 01445A-06-0199, et al., is consistent with this acceptance of the PAD; and
- 15 • the real property in Parcel Three is owned by one property owner. The Company has
16 requested a letter from the property owner, and it will be filed to supplement this
17 request as soon as the Company receives it. It will document the property owner's
continuing need and request for water service from the Company to be able to develop
its property in the expansion area. The property owner letter will also confirm the
owner's plans to develop its property in reliance upon water service that it plans to
obtain under the Company's Certificate. The continued existence of that Certificate
will support the slowly improving development market that has experienced historic
difficulty, as detailed above, and the withdrawal of the Certificate would be
detrimental to that recovery.

18 19. On February 20, 2013, the Company filed a supplement to its request for an extension
19 of time along with a copy of a letter from the owner of Parcel Three. The letter confirmed the need
20 for service and the supplemental pleading further stated that the Company is now providing service to
21 18 customers in the expansion area.

22 20. On June 14, 2013, Company filed another supplement to its request herein, and
23 attached a copy of an ATC issued on April 18, 2013, that represents an extension of service to
24 property located in Parcel Three as required by Decision No. 68442. This filing satisfies one of the
25 three compliance filing requirements of the Decision.

26 21. On June 28, 2013, Staff filed a memorandum in response to the Company's fourth
27 request for an extension of time to comply with Decision No. 68442. Staff stated that since the
28 Company had met the requirements for Parcels One and Two, and in light of the letter from the

1 owner of Parcel Three, the extension should be granted until February 2, 2015, but no further
2 extensions be granted for any reason.

3 22. Under the circumstances, as noted herein, and in light of the ATC granted for Parcel
4 Three, the extension should be granted as requested until February 2, 2015.

5
6 **CONCLUSIONS OF LAW**

7 1. The Company is a public service corporation within the meaning of article XV of the
8 Arizona Constitution and A.R.S. §§ 40-252, 40-281 and 40-282.

9 2. The Commission has jurisdiction over the Company and the subject matter of the
10 request addressed herein.

11 3. Staff's recommendation for the extension of time to file copies of the remaining
12 required documentation as set forth above in Findings of Fact No. 2 should be adopted.

13 **ORDER**

14 IT IS THEREFORE ORDERED the Arizona Water Company is hereby granted an extension
15 of time, until February 2, 2015, to file copies of the remaining required documents for Parcel Three,
16 as set forth in Decision No. 68442, Decision No. 70844 and Decision No. 72247, as follows: the
17 developer's Certificate of Assured Water Supply; and any executed main extension agreements.

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28

IT IS FURTHER ORDERED that no further extension to file the aforementioned documentation shall be granted absent extraordinary circumstances.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

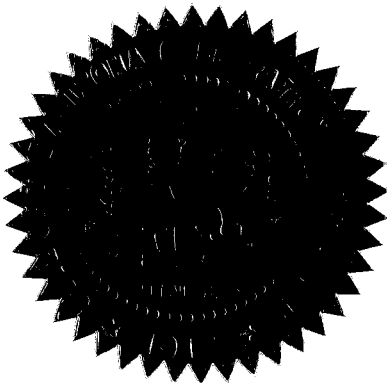
CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER



IN WITNESS WHEREOF, I, JODI A. JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 30th day of July, 2013.

JODI A. JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: ARIZONA WATER COMPANY

2 DOCKET NO.: W-01445A-05-0389

3 Robert W. Geake
ARIZONA WATER COMPANY
4 P.O. Box 29006
Phoenix, Arizona 85038-9006

5 Janice Alward, Chief Counsel
6 Legal Division
ARIZONA CORPORATION COMMISSION
7 1200 West Washington Street
Phoenix, Arizona 85007

8 Steve Olea, Director
9 Utilities Division
ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
Phoenix, Arizona 85007

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28